



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Administration**

Division of Motor Vehicles  
Director's Office

1300 W Benson Blvd  
Anchorage, Alaska 99503  
Main: 907.269.5559  
Fax: 907.269.5081  
[www.doa.alaska.gov/dmv](http://www.doa.alaska.gov/dmv)

1/30/2019

The Identity Project

Edward Hasbrouck

1222 Preservation Park Way, #200

Oakland, CA 94612

Mr. Hasbrouck

In response to your January 1, 2018 public records request, the State of Alaska, Department of Motor Vehicles are providing the requested emails on the enclosed DVD. We have attached the letter sent to you on January 11<sup>th</sup>. This includes documents bates numbered 000001-69443 as well as a folder titled "Spreadsheets." Our system does not allow for conversion of Excel attachments in a readable format so these have been converted, named with their corresponding bates number, and attached in a separate folder. This concludes the State's production of documents for this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Marla Thompson".

Marla Thompson

Director, DMV



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

Department of Administration

DIVISION OF MOTOR VEHICLES  
Director's Office

1300 West Benson, Suite 900  
Anchorage, Alaska 99503  
Main: 907.269.5559  
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January 11, 2018

Mr Edward Hasbrouck  
1130 Treat Ave.  
San Francisco, CA 94110

Mr. Hasbrouck,

I hope to clarify here how the Alaska Division of Motor Vehicles (DMV) in the Department of Administration (DOA) is responding to your request under the Alaska Public Records Act (APRA) for the following records: all DOA emails sent or received from January 1, 2017, to December 11, 2017, between (1) anyone in DOA and (2) anyone using an "aamva.org" email domain and/or a "clerussolutions.com" email domain.

As a threshold matter, I note that DMV has not denied your request for public records under the APRA, although DMV will withhold responsive emails—if any—protected from disclosure under AS 40.25.120(a). Also, I note that DMV, not the Office of the Commissioner or any other entity within DOA, is responding because there is no reason to believe that persons outside DMV have responsive records.

DMV began responding to your request under AS 40.25.110. When you objected to the cost of the search, we determined, for the reasons explained below, that the search and copying should be done under AS 40.25.115, which is also in the APRA. (The APRA regulations that implement AS 40.25.115 are also in 2 AAC 96.100 – 2 AAC 96.470.) Accordingly, Ms. Montalbo told you on May 12, 2017, that we would respond under that provision and, therefore, would ask the State Security Office to conduct an electronic search of the State's email system using the subject terms and dates. In December, you received the State Security Office's estimate, and now, for the first time, you object to proceeding under AS 40.25.115; also, you have expanded the scope of your request to include emails through December 11, 2017.

In response to your objection to proceeding under AS 40.25.115, I am explaining here the differences between AS 40.25.110 and AS 40.25.115 and why DMV is responding to your request under the latter provision.

The APRA includes two provisions for obtaining records: AS 40.25.110 and AS 40.25.115. Under AS 40.25.110, agencies provide non-protected public records based on searches of the electronic and non-electronic locations where records might be stored. *See* AS 40.25.110(a). Agencies charge, based on the actual salary and benefit costs, for the personnel time to search and copy if performing those tasks requires more than 5 person-hours in a calendar month; for



copies, agencies charge the standard unit cost of duplication; and agencies can require payment of the estimated fees before performing the work. *See* AS 40.25.110(b)-(c). Under AS 40.25.115, agencies may use computer-related means—such as electronic searches—to generate or identify records. *See* AS 40.25.115(a). If agencies decide that responding to a request involves using computer-related means, they base the fee “on recovery of the actual incremental costs of providing the electronic services and products, and a reasonable portion of the costs associated with building and maintaining the information system of the public agency.” AS 40.25.115(b). For electronic searches for emails, the portion of the cost associated with the State’s email system has (for now) been set at \$0; therefore, agencies charge only for the time of employees to design and run the electronic search and to collect, de-duplicate, and provide the emails. Also, under AS 40.25.115, agencies can require payment of the estimated cost of the search before performing the work. *See* AS 40.25.115(a).

DMV responds under AS 40.25.110 to a request for emails that its employees can find simply by opening emails in their email accounts—not by performing electronic searches. DMV responds under AS 40.25.115 if it needs (1) to use specific terms to electronically search for emails, (2) to duplicate emails “in alternative formats not used by a public agency,” or (3) to ask the State Security Office to search the State’s email system because current employees might not have all the responsive emails that former employees sent or received. AS 40.25.220(1)(B), (D), (E).

Accordingly, DMV is responding to your request under AS 40.25.115 for the following reasons. First, DMV will use search terms: i.e., the subject email domains. Second, given that the search will likely result in thousands of emails and that DMV disseminates copies of emails in paper form or as PDFs, DMV will convert emails from their native MSG file format to PDFs to avoid the need to print potentially thousands of pages. *See* 2 AAC 96.355(a). Third, former employees might have sent or received responsive emails that current employees do not have. In addition, DMV estimates that, even if it responded to your request under AS 40.25.110 despite using electronic searches, searching and copying or printing would require more than 5 person-hours: 27 DMV employees would need to individually search their email accounts and copy or print thousands of emails.

You reference *McLeod v. Parnell*, 286 P.3d 509 (Alaska 2012), to support the assertion that DMV cannot respond to your request under AS 40.25.115. That case is not relevant for a number of reasons, including the following. First, the case concerned whether private emails regarding state business are public records and whether using private email accounts violates the APRA: those issues are not pertinent here. DMV agrees that the requested emails are public records if they “are preserved [or appropriate for preservation] for their informational value or as evidence of the organization or operation of the public agency.” AS 40.25.220(3). Second, for the reasons explained above, DMV is appropriately proceeding under AS 40.25.115.

Enclosed is a revised State Security Office estimate. The estimate was revised for two reasons: (1) to identify the specific current and former DMV employees who reasonably might have emails sent to or from either or both of the subject email domains; and (2) to include any such emails that were sent or received between January 1, 2017, and December 11, 2017. Upon receiving the signed, revised State Security Office estimate and a check or money order in the amount of \$88.78, made payable to the State of Alaska, DMV will ask the State Security Office



## **Alaska Public Records Act Request**

### **Search and Cost Estimate**

**Date:** 1/9/18

**SSO Internal Tracking Number**

- SDM R-115371

**Task**

- Alaska Public Records Act Request for Emails

**Requesting Agency/Contact**

- Marla Thompson, Division of Motor Vehicles (DMV) Director

**Current and Former SOA Employees Searched**

- Mastre, Antoinette
- Dana Arnold
- Patrick Brosnan
- Elizabeth Browning
- Jason Chapman
- Maureen Dickens
- Kiley Dwyer
- Coleen Greensfields
- Analisa Hinkle
- Barbara Hord
- Amy Johnson
- Debra Leonardo
- Erin Messing
- Carmen Moore
- Abraham Ninan
- David Nolan
- Audrey O'Brien
- Brianna Olzenak
- Mina Peters
- Rohan Ralliararam
- Katie Smith
- Nichole Tham
- Marla Thompson
- Janice Torsen
- Abbey Valentine
- Melissa Walters
- Jason Whipple
- Lauren Whiteside
- Oscar Zapata

**Dates Involved**

- 1/1/17 – 12/11/17

to begin the search. Please send the signed estimate and payment to me at 1300 West Benson Blvd., Suite 900, Anchorage, Alaska 99503.

If you have any questions, please send me an email at [marla.thompson@alaska.gov](mailto:marla.thompson@alaska.gov) or call me at 907-265-5574.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marla Thompson", with a stylized flourish at the end.

Marla Thompson  
Director, DMV



**Systems Involved**

- Email Archives and Journals

**Discovery Process Outline**

**SOURCE:** Email to/from (including cc and bcc) SOA Employees Searched

**SEARCH :** Source for the TERMS in the "To," "From," "CC," or "BCC" field for the Dates Involved

**TERMS:** aamva.org  
clerussolutions.com

**RESULTSET:** Results will be in a single .pst file

**Email Records Search**

- SSO receives request, creates a Service Request
- SSO approves request, sends request to DOA commissioner for approval
- SSO receives approval
- SSO completes and provides requesting agency cost estimate
- Requesting agency works with requester to approve Search and Cost Estimate and to arrange payment
- Once SSO is notified that requesting agency received payment, query is submitted
- SSO provides results to requesting agency

**Hours Breakdown**

- SSO search, review, collection, de-duplication, and delivery

**Hourly Rate**

- \$88.78

**Cost Estimate**

- Hours = 1
- Rate = \$88.78/hour

**Estimated Delivery Date for Agency Review: 10 working days from SSO's receipt of notification of payment**

***Total Estimate            \$88.78***

**SIGNATURE OF REQUESTER** \_\_\_\_\_